

Attorney Docket No. 9013.22

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re: Baker et al.
 Serial No. 09/990,832
 Filed: November 16, 2001
 For: TARGETING PEPTIDES

Confirmation No. 3015
 Examiner: Chih Min Kam
 Group Art Unit: 1653

August 28, 2003

Mail Stop NON-FEE AMENDMENT
 Commissioner for Patents
 P.O. Box 1450
 Alexandria, VA 22313-1450

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RESPONSE TO RESTRICTION REQUIREMENT

Sir:

This reply is submitted in response to the Office Action dated August 1, 2003. In the Office Action, Claims 1-43 have been restricted as follows:

- A) **Group I** (Claims 1-18, 28-34, and 38);
- B) **Group II** (Claims 19-27);
- C) **Group III** (Claims 35-37); and
- D) **Group IV** (Claims 39-43).

In response to the restriction requirement, Applicants hereby elect with traverse the claims of Group I (Claims 1-18, 28-34, and 38, drawn to a targeting peptide; a kit comprising the targeting peptide; a pharmaceutical composition comprising a targeting peptide in association with a vehicle, wherein the vehicle carrying a pharmaceutically active agent such as a drug, a peptide or a polynucleotide; or, a gene therapy vector comprising a targeting peptide, a vehicle associated with the targeting peptide, and a nucleotide sequence).

Applicants are further required to select one targeting peptide identified by "SEQ ID NO" from Claims 1-4, 8-11, and 28-31, one material targeted to a cell from claim 7, one pharmaceutically active agent from claims 13 and 38, and one molecular group from claim 34. Applicants hereby select SEQ ID NO. 51: SIGYPLP as a targeting peptide, drug delivery vehicles as a material targeted to a cell, a biologically active drug as a pharmaceutically active agent, and pharmaceutically active agents as a molecular group.

Applicants appreciate the Examiner's attention given to the claims, however, Applicants respectfully traverse the restriction requirement on the basis that the Examiner has not demonstrated that the requirements for claim restriction have been met. It is stated in

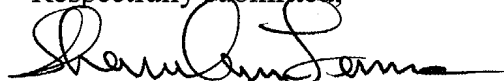
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section 803 of the *Manual of Patent Examining Procedure* (MPEP) that two criteria for proper restriction of claims must be met: 1) The inventions must be independent and distinct as claimed, AND 2) there must be a serious burden on the examiner if restriction is required. The MPEP further states that "[i]f the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to independent or distinct inventions." Therefore, Applicants respectfully request reconsideration of the restriction requirement as to the remaining groups. It is respectfully submitted that a search of these groups would overlap with a search of Group I, wherein all of the claims of Groups I-IV can be searched as classified in class 514, with many sharing the same subclass. Hence, grouping these claims together would not present an undue burden to the Patent Office. Accordingly, Applicants respectfully request that the Examiner reconsider the restriction requirement.

Applicants respectfully submit that this application is in condition for substantive examination, which action is respectfully requested. The Examiner is also encouraged to contact the undersigned directly at (919) 854-1400, if such contact will expedite the examination and allowance of the pending claims.

No fee is believed due with this response. However, the Commissioner is hereby authorized to charge any deficiency or credit any overpayment to Deposit Account No. 50-0220.

Respectfully submitted,

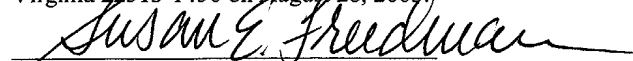


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I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Mail Stop NON-FEE AMENDMENT, Commissioner for Patents, Post Office Box 1450, Alexandria, Virginia 22313-1450 on August 28, 2003.



Susan E. Freedman
Date of Signature: August 28, 2003